EXHIBIT B

For the District of Delaware

James Hall,
plaintiff
v.

David Holman, Lawrence McGuigan and Deputy Warden Clyde D. Sagers
Defendants,

C.A. # 04-1328-GMS

Jury Trial of twelve Demanded

Plaintiff's Motion for Summary Judgment Against Defendants David Holman Et.Al; in support of his motion plaintiff offers the following: Pursuant to Rule 36(A) Fed R. Civ. P and Rule 56(C) of the Fed R. Civ. P.

Comes Now, The plaintiff, James Hall, prose and Moves This Honorable court to Grant plaintiff's motion for Summary Judgment. Because there is no Genuine issue as to any material fact and that the moving party is entitled to a Judgment as a matter of Law

Legal Standard

1. The Rule states that if a Request for Admission, is not timely answered, The matter, is deemed Admitted Rule 36(A) Fed R. Civ. P.

Request For Admission, which ask the opposing party to Admit or deny the truth of particular facts, that have been Admitted As Binding Rule 36(b) Fed.R.Civ.P (if a party objects to a Request, he must specifically state the Reason for the objection The State Defendants "non conformity" letter-motion, Dated November 9, 2005 (D.I.), In plaintiff objection he alleges that state defendants failed to support their Claim As required by Fed.R.Civ.P. 7(b) The moving party must confer and make good faith effort to Contact plaintiff and must submit by Affidavit with pertinent factual allegation and on the Absent Motion to Dismiss. the Requisite is belied by their shameless Delay tactic. Request for Admission can be served at any time during Litigation. The opposing party has (30) days After service to Answer or object

Additionally, plaintiff alleges in his objection Defendants want To Dupe the Court in forstalling plaintiffs properly filed And Legitimate discovery Request. At #2. of plaintiff objection he has presented fact that support his position with Case Law. Demonstrating That under Fed.R.Civ.P. 56(f) And it follow the axiom that it is Inappropriate to prohibit a Legitimate discovery Request where-As-here the evidence etc. is in possession of Defendant. plaintiff filed an Affidavit Demonstrating this fact. Defendants Are Seeking protection from discovery and this Honorable Court has not granted Defendant protection from plaintiff Discovery Request. Defendant failed To Timely Respond to plaintiffs, Discovery Request (i.e. Request for production of Documents, Request for Admission, Request for Interrogatories, (D.I. Certificate of services, Moreover plaintiff has allowed 15 day grace period.

Summary judgment is governed by Rule 56 of the Federal Rules of Civil procedures. Under that provision Summary Judgment is warranted when "the pleadings, depositions, answers to interrogatories, and admissions on file, Together with the affidavits... show that there is no genuine issue as to any material fact And that the moving party is entitled to a Judgment as a matter of Law." Fed R. Civ. P. 56(C). See Celotex Corp. v. Catrett, 477 U.S. 317, 322 106 S. Ct. 2548, 2552 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247, 106 S. Ct. 2505, 2509-10 (1986). Security insurance Co. of Hartford v. Old Dominion Freight Line, Inc., when Summary Judgment is Sought, the moving party bears an initial burden of Demonstrating that there is no Genuine dispute of material fact to be decided with Respect to any essential Element of the Claim in issue; The failure to meet this burden warrants Denial of The Motion. Anderson, 477 U.S. At 250 n. 4, 106 S. Ct. At 2511 n. 4. Security insurance, 391 F.3d at 83. In the event this initial burden is met, The opposing party must show, through affidavits or otherwise, That there is a material issue of fact for trial [FN11] Fed R. Civ. P 56(e); Celotex, 477 U.S. at 324, 106 S. Ct. At 2553; Anderson, 477 U.S. at 250, 106 S. Ct. at 2511 [FN11] A material fact is Genuinely "in Dispute" if The Evidence is Such that a Reasonable Jury could Return a Verdict for the nonmoving party." Anderson, 477 U.S. At 248, 106 S. Ct. At 2510.

Defendants Admit And plaintiff Demonstrates that there is no Material issue of Fact in Dispute with Regards To The First (1) Essential Element of the plaintiff's Claim.

~~Substantial Risk of Harm~~:

At Item# 8 of the plaintiff's (Request For Admission.) defendants Admitted that they knew plaintiff faced a substantial Risk of harm (ID. Moreover, they knew Plaintiff faced a substantial Risk of harm and Disregarded that Risk by failing to take Reasonable Measures to Abate, it (ALSO ID, #, 2 # 11

~~Official knowledge of that Risk~~: officers David Holman Et Al, Admit And plaintiff Demonstrates that there is no material issue of Fact in Dispute with Regard to the Second (2) Essential Element of the plaintiffs Claim. It is Clearly undisputed that Defendant possessed Actual knowledge of the pervasive Risk of harm to plaintiff (ID. DI.4. At Item#26 and Exhibit A, Exhibit B. Memorandum order From Clyde A. Sapers. Dated May 17, 2004.

~~Officials failure to Respond Reasonable to the Risk~~: officers David. Holman Et Al; Admit and plaintiff Demonstrates that there is no Material issue of fact in dispute with Regards To the third (3) Essential Element of the plaintiffs Claim. Defendants Admitted At Item# 11 (Defendant DAVID Holman, Clyde D. Sapers, Lawrence Megargee Defendants intentionally ignored and failed to Respond To a particular know Threat to plaintiff. Thus failing to RESPond To Substantial Risk of Serious harm, and plaintiff was Suffered the unnecessary and To Defendants Deliberate indifference. (II)

Officials David Holmes Et. Al; Admit and plaintiff Demonstrates That there is no Material issue of fact in dispute with Regards To the fourth (4) Essential Element of plaintiff Claim.

Causation And injury. Defendants Admit At Item # 16 plaintiff Submitted numerous Request over a period of 4, 5, months To be moved (Literally within the same Security level to another cell Defendant failure to Respond Reasonable has Resulted in permanent injury to plaintiff. (I)

Physical injury, necessary to support claim against prison official for failure to protect under Requirement of (PLRA): Requires observable or diagnosible medical condition requiring treatment by medical care professional; injuries treatable at home and with over the counter drugs heating pads rest and similar methods do not fall within parameters of Requirement 42. U.S.C.A. 1997(e) (ID D.I. 4 App 3. Appropriat de minimus Standard is whether injury is of nature that would require free-world person to visit emergency Room or have Doctor attend to, give opinion, diagnosis or medical treatment for injury or whether home treatment would Suffice Lunt v Hall 979. F. Supp. 481 * 486.

To be cruel and unusual punishment, conduct which does not purport to be punishment at all must involve more than ordinary lack of due care for the prisoners interest or Safety. It is obduracy and wantonness, not inadvertence or error in good faith, that characterized The conduct prohibited by the Cruel and unusual punishment clause. Whitley v. Albers 475 U.S. 312, 106 S.Ct. 1078. at 319). Defendants admit at # 16 of plaintiff Request for Admission. The physical pain, mental anguish; Fright And Shock, Embarrassment, humiliation or Modification, Physcological injury inflicted upon plaintiff Demonstrates the Requisite mental State for a finding of Deliberate indifference

Defendant's Claim ¶ 7-8 of their motion to Dismiss

Plaintiff fail to Show either Actual Knowledge - or a Substantial Risk of Harm Reason being that Defendant (Stamped Recited) and Admit to actual knowledge. David Holman placed his initials By His Name ID) And Defendant Holmans has actual knowledge of The Danger. Defendants Merrique, Sagers ID Recited, DCC Deputy Warden 1, Initial; Clyde Sagers, Recited Security Defendant have Actual knowledge and Also Admit (Plaintiff Request for Admission Item # 8 # 12, Defendant, failed to take Reasonable Measure to guarantee The safety of inmate, Defendants Conduct or lack of Conduct demonstrate a knowing indifference to a Substantial Risk of Serious harm to Plaintiff # 2, Defendant Clyde Sagers, David Holman, Lawrence Merrique knew that plaintiff faced a Substantial Risk of harm and disregarded that Risk by failing to take Reasonable Measure to abate it. ID # 8) (of Plaintiff Request for Admission). Defendant's claim that plaintiff ,in his complaint that prison officials, should have been aware of a Risk at 26;, Defend misrepresent the courts Ruling (court found that it does not amount to deliberate indifference if an official fails to alleviate a Significant threat that he should have identified but failed to find Farmer, 511 U.S. at 837-838, Rather the holding is, But an officials failure To Alleviate a Significant Risk that he should have perceived but did not, while no cause for commendation, cannot under our cases be condemned as the infliction of punishment, the instant case, plaintiff complained About Not being Able to protect himself from Attack And Asking officials to move him, would Suggest, fear, misery And Asking for Intervention A.S.A.P. "As Soon As possible" ID.

Defendant Claim in their motion to Dismiss p. 9

Defendants are Immune in their official Capacities

a Suit against State officials in their official capacities is Treated As a Suit Against the State Hafer v. Melo, 502 U.S. 21 (1991). Qualified Immunity does not protect Municipalities or officials Sued in their official capacities, Owens v. City of Independence 445 U.S. 622, 100 S.Ct. 1398 (1980). Moore v. Morgan, 922 F.2d 1555, 1556 (11th Cir. 1991). P.C. v. McLaughlin, 913 F.2d 1033, 1039 (2d Cir. 1990). Plaintiff seeks injunctive Relief Requiring prison officials To use available Inmate Classification information and procedures to predict Compatibility of incoming cellmates for double Celling because current Random Assignment of cellmates Substantially increase Risk of violence, in violation of the Eighth Amendment (D.I. 4 and D.I. 2 at #18). Defendants are not entitled to Qualified Immunity in the instant case.

Whether the plaintiff's claim is brought against defendants in their Individual capacities The Eleventh amendment does not bar damages Suits against them for deprivation of federal Rights caused by those officials under color of State Law, Scheuer v. Rhodes 416, U.S. 232 238 94 S.Ct. 1683, 1687, 40 L.Ed. 2d 90 (1974), Ex Parte Young, 209 U.S. 123, 159-66, 28 S.Ct. 441, 453-54, 52 L.Ed. 714 (1908) (a nominally-Suit against an Individual official, however nevertheless may be viewed As one against the State if the Suit Seeks Damages from the State Treasury See Kentucky v. Graham 473 U.S. 159, 165-66 & n.11, 105 S.Ct 3099, 3104-05 & n.11, 87 L.Ed. 2d 114 (1985); Brandon v. Holt, 469 U.S. 464 470-71 & n.8, 105 S.Ct 873, 877 & n.15, 53 L.Ed 2d 878 (1985); Harris v. Pernsley, 755 F.2d 338, 348 (3d Cir 1985) The Eleventh Accordingly provides no Shield in this case, Defendant whose Relief is Sought, David Holman Et. al, Plaintiff Seeks Damages from Defendants not from the State Treasurer.

The Relevant Dispositive inquiry in determining whether a Right is clearly established is whether it would be Clear to a Reasonable officer that his conduct was unlawful in the situation he confronted See Wilson v. Layne, 526 U.S. 603, 615, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999) As the Supreme Court Explained in Anderson the Right allegedly violated must be defined at the Appropriate level of Specificity before a court can determine if it was (clearly Established) Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) .. if the Law did not put the officer on notice that his conduct would be clearly unlawful, Summary Judgment based on Qualified Immunity is Appropriate (see Malley v. Briggs, 475 U.S 335, 341, 106 S.Ct. 1092, 89 L.Ed 2d 271 (1986) (Qualified Immunity protect "All but the plainly incompetent or those who knowingly violate The Law. In determining whether Jail Condition violate 8 Amendment Court of Appeals need not Separtly weigh each of the Challenged institutional Practices and conditions the Court looks instead to the totality of condition. in Light of the News Journal's investigation The Department countlessly Affirmed Condition at the prison where plaintiff James Hall is incarcerated are indeed cruel and unusual (ID Exhibit D.) In Alberti v. Klevenhagen, 790 F.2d 1220 (5th Cir. 1986) (Assaults Among inmates) It's constitutional Stand with Pre-existing Case would make the plaintiff's claim apparent that a inmate is afforded Reasonable protection from Assault by fellow Inmates

"Constitutional Standard"

Alberti v. Klevenhagen, 790 F.2d 1220 (5th Cir. 1986) (assaultings among Inmates), Violence and Sexual Assaults among Inmates Must rise to the Level rendering conditions Cruel and unusual

Jones v Diamond, 636 F.2d 1364, 1365 (5th Cir. 1981) (en banc) (Citing Miller v Carlson, 563 F.2d 741 (5th Cir. 1977)), W. Hazen v. Edwards, 547 F.2d 866 (5th Cir 1977), Cert denied Subnom. Redbetter v. Jones, 453 U.S. 950, 102 S.Ct. 27, 69 L.Ed.2d 1033 (1981). The Relevant inquiry "stems from Constitutional Requirements... Rather than a courts idea of how best to operate a detention facility." Bell v. Wolfish, 441 U.S. 320 539, 99 S.Ct. 1861, 1874, 60 L.Ed.2d 447, 469 (1979). The District court Expressly Recognized its limited Role in that litigation. 600 F.Supp. at 456-57 These limitation do not mean, however, that federal courts must adopt a "hand off" approach to problems of Jail administration," Bell, 441 U.S. At 562, 99 S.Ct. 1861, 1874, 60 L.Ed.2d. at 488. There is no iron curtain drawn between the Constitution and prisoners of this country," Wolfish v McDonnell, 418 U.S. 539, 555-56, 94 S.Ct. 2963, 2974, 41 L.Ed.2d. 935, 950 (1974). "A prisoner whether already convicted of a crime or merely awaiting trial, does not shed all his Constitutional Rights when he puts on Jail clothing" Jones, 636.2d at 1368. We therefore next set out the standard used to draw the line between permissible Correctional officer unconstitutional conditions and impermissible Jail Administration. The Eighth Amendment imposes the constitutional limitations upon punishments: they cannot be "Cruel and unusual." This, as a flexible standard, no static test can exist by which courts determin whether conditions of confinement are cruel and unusual, For the Eight Amendment, must "draw its meaning from the evolving Standard of decency that mark the progress of a maturing society" Rhodes v. Chapman 452 U.S. 337, 346, 101 S.Ct. 2342, 2399, 69 L.Ed.2d 59, 68 (1984) (Quoting Trop v Dulles.

, 356 U.S. 86, 101 78 S.Ct. 590, 598, 2 L.Ed.2d 630, 642 (1958) (Plurality opinion). While the Eighth amendment determination must not be merely a Judge's Subjective view, the Constitution contemplates that ultimately a Court own decision/Judgment will be Brought to bear on the Question Id. 453 U.S. at 346, 101 S.Ct. At 2399, 69 L.Ed.2d at 65-69. Jail conditions must not fall below a minimum Standard of decency Required by the Eighth amendment. conditions which "alone or in combination, may deprive Inmates of the minimal civilized measures of life necessities.... could be cruel and unusual under the contemporary standard of decency... Id.

Brief in Support of plaintiff Injunctive order

Plaintiff Demonstrates that there is no Material issue of fact indispute with Regards to the totality of conditions that are dangerous to plaintiff and future and current DCC. Population Defendant admit At (plaintiff Request for Admission At Item 26

Defendant David Holman. et al, admit, many acts of violence at the (MHU) go unreported and undocumented for these Reasons:
1) if a Inmate Reports violence by another Inmate. Inmates do not want to be labeled "Snitches" and they often do not Report violence
2) if an Inmate Reports violence in which he is involved, both he and the other inmate will Recive misconduct Reports and will be disciplined and Transported from (MHU) to (SHU)
(Segregation of the highest supervision) Id.

The plaintiff Demonstrates that he and All other Inmates At (DCC) face a pervasive Risk of harm because they belong to a Identifiable Group Singled out by The Religious Group

1. There's a Group that Masquerades as a Religious Group (i.e., The Muslims'), These Individuals Recruite Inmates for purposes of [Extortion, Protection, Group Violence, Intimidation.] Inmates not Affiliated with this class. Are Referred to as ("Cufars, i.e., Non-believers). And Are Singled out for Recruitment in an event a (non-believer). Refusses the Advancement it is most Likely they Aggresser will become Persistent And practice's of protection, Exceptance Ect. will Follow

with the dual intention's plaintiff. Demonstrates that on 6-6-04 he was Subjected to the Group Violence of this Classic gang behavior. ID Complaint (DI.4 And DI.2 Attps)

The Inmate who Plaintiff Complained to defendants about belong's to this Group. The Analysis of 6-6-04 Suggest that The plaintiff was Attacked (Twice) on Said Date Receiving a Serious injury The Defendants knew that the plaintiff faced a pervasive Risk of Serious harm Actual knowledge of this fact on the part of The Defendants is Supported by plaintiff's Several Letters to them informing them of Same and Asking for Help which never came Also ID Item# (By DI.4 and DI.2)

James Hall

1181 Paddock Rd Smyrna Delaware D.C.C
JAMES HALL pro se

12-16-05

Date

3) if an Inmate reports a ticket incident, but there is neither a "witness" Nor physical evidence of an assault (ie, Bleeding, cuts, abrasions) of the reported violence, neither Inmate is disciplined, leaving the victimized inmate labeled as a snitch Creating a Really Substantial risk of further Attacks on the victims safety

27th Jan. The Defendant David Holman et.al, knew that the plaintiff faced a pervasive risk of harm

Jan 29 the Defendant David Holman et.al Subjected plaintiff To violent Assault. and Acknowledge. it is not part of the penalty that criminal offend pay for their offenses against Society plaintiff has Demonstrated that he is incarcerated under conditions posing a Substantial risk of Serious harm as noted: plaintiff Suffered from a broken right hand And was Literally Defenseless and Defendants were aware of this fact and yet despite their knowledge they disregarded the Excessive risk to plaintiffs health and Safety thus the plaintiff was Suffered the unnecessary and wanton infliction of pain in violation of the Eighth Amendment Id.

This Deliberate Attitude of Defendants David Holman et.al, Clearly Demonstrate that there is no material issue in dispute and the plaintiff is Entitled to a Judgment as a matter of Law.